

02301-9805-26-044048
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1 IN THE CRIMINAL COURT OF MADISON COUNTY, TENNESSEE

2 AT JACKSON, DIVISION I

3 STATE OF TENNESSEE

FILED

4

JUN 25 1997

5 VS.

No. 96-589

Joe Gaffney, Circuit Court Clerk

6

John
DEPUTY CLERK
A.M.

7 JON HALL

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10 MOTION FOR NEW TRIAL

11 MOTION TO WITHDRAW

12 MAY 20, 1997

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21 AMY MAYS

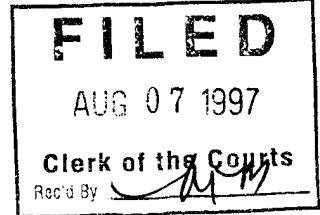
22 OFFICIAL COURT REPORTER

23 MADISON COUNTY COURTHOUSE - THIRD FLOOR

24 JACKSON, TENNESSEE 38301

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1 **APPEARANCES**

2 For the State:

3 **MR. JAMES G. WOODALL**

4 **MR. AL EARLS**

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7 Jackson, Tennessee 38302

8 For the Defendant:

9 **MR. JESSE H. FORD, III**

10 **MR. CLAYTON F. MAYO**

11 **Ford & Mayo**

12 **618 North Highland**

13 **Jackson, Tennessee 38301**

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1 THE COURT: Gentlemen, this is Ms. Evelyn
2 Goodwin. She's a law clerk that the Supreme Court has
3 furnished me in these kind of cases. The other
4 gentleman is somewhere else that we had for the trial.

5 All right, Mr. Ford, what's your motion?

6 MR. FORD: Your Honor, this is a Motion for
7 New Trial or Judgment or Verdict of Acquittal in State
8 vs. Jon Hall, Number 96-589. We filed this motion on
9 his behalf. I'm going to go through it briefly, Your
10 Honor.

11 First of all for the first ground, we would
12 state that the evidence was insufficient to support the
13 verdict and that the verdict is against the weight of
14 the evidence.

15 Also we'd like to point out that the Court
16 allowed Mr. Woodall to question Cindy Connor, one of
17 the child witnesses, regarding a statement she made,
18 and on cross-examination she was only questioned about
19 the first page of that particular statement. The Court
20 allowed the State to ask questions on redirect which
21 were outside the scope of cross-examination, all to the
22 Defendant's prejudice.

23 The next ground was that we allege the Court
24 erred in failing to allow Cheryl Arbogast during the
25 sentencing phase to testify regarding the Defendant's

1 state of mind prior to the date of the alleged
2 incident. The Defendant was not allowed to make an
3 offer of proof on that issue.

4 Also during the sentencing phase or
5 punishment phase --

6 THE COURT: Well did you ask for the -- to be
7 allowed to make an offer of proof?

8 MR. FORD: Yes, sir. I believe Mr. Mayo did,
9 Your Honor.

10 THE COURT: And I refused it?

11 MR. FORD: Yes, sir, as far as -- that's what
12 my memory --

13 THE COURT: I don't recall that. I'm just
14 saying it may have happened, but the Court doesn't have
15 any recollection. I believe it's my general policy to
16 say that if you want an offer an proof, I say well at
17 some time before the end of the trial that you'll be
18 allowed to, and then if they don't ask, why then that's
19 where I stop.

20 MR. FORD: Yes, sir.

21 THE COURT: All right, go ahead.

22 MR. FORD: Also during the sentencing phase,
23 various photographs were introduced which we objected
24 to. These photographs were gruesome, inflammatory.
25 Their prejudicial affect outweighed their probative

1 value. These were cumulative and unnecessary in that
2 they tended to prove what was already in evidence; that
3 is, the autopsy report which was placed into evidence
4 by Dr. Smith.

5 The next ground would be that we allege it
6 was error to charge the murder was committed while
7 engaging in or committing or was accomplished in the
8 commission of or was attempting to commit or was
9 fleeing after committing or attempting to commit any
10 first degree murder, rape, burglary or kidnapping.
11 These aggravating circumstances were improperly
12 presented to the jury and were a necessary part of the
13 offense as charged.

14 I will submit also, Your Honor, that the
15 aggravating circumstances failed to properly narrow the
16 class of the Defendant subject to the death penalty,
17 and that the instruction on the heinous, atrocious and
18 cruel instruction was unconstitutionally vague.

19 Furthermore, we would argue that the evidence
20 was insufficient to support the findings of any
21 aggravating circumstances and that the aggravating
22 circumstances do not outweigh the mitigating
23 circumstances, and that based thereon, the death
24 penalty -- death sentence should be reduced to life
25 without parole.

1 As another ground we submit that the Court
2 erred in allowing cameras in the courtroom for the
3 trial.

4 Another ground is that the electric chair
5 constitutes cruel and unusual punishment under the
6 Tennessee and U.S. Constitutions.

7 Furthermore, we allege that the State failed
8 to prove the required mental state necessary for the
9 Defendant to form the specific intent to commit first
10 degree murder.

11 Finally, on the constitutional grounds, we
12 submit that the Court erred in overruling Defendant's
13 motion to declare the death penalty unconstitutional in
14 that it violates the Fifth, Sixth, Eighth, Fourteenth
15 Amendments to the United States Constitution, Sections
16 8, 9, 10 and 16 of the Tennessee Constitution.

17 Your Honor, based on those specific grounds,
18 we would seek a new trial on behalf of Jon Hall.

19 MR. EARLS: Your Honor, if I could address
20 the Court on a matter before I respond to that.

21 THE COURT: Well, if it's -- Let's get the
22 new trial out of the way. If you've got some other one
23 to be addressed on, why ...

24 MR. WOODALL: Judge, may I be heard instead
25 of Mr. Earls?

1 THE COURT: Yes, sir.

2 MR. WOODALL: We've received information as
3 well as a motion filed pro se by the Defendant that he
4 wishes to have different counsel.

9 MR. WOODALL: Would you hear me out?

10 THE COURT: Yes, sir.

11 MR. WOODALL: Now assuming that Your Honor
12 does replace them, and we will at the appropriate time
13 address that issue, hypothetically if you did replace
14 them, even after hearing this Motion for a New Trial,
15 you would have to hear a new Motion for a New Trial or
16 amended Motion for a New Trial. So I just point that
17 out to the Court.

21 MR. EARLS: Your Honor, if I could respond
22 kind of in reverse order. I point out to the Court
23 that the Tennessee Supreme Court and also the U.S.
24 Supreme Court has continually upheld the death penalty
25 and the instructions related to --

1 THE COURT: I don't care to hear argument on
2 that. The Court finds that the ruling was proper with
3 regard to the death penalty.

4 MR. EARLS: Your Honor, I'd point out that
5 the photographs complained of which he said were more
6 prejudicial and probative, the case law is well-settled
7 in the State of Tennessee, Your Honor. When the State
8 is relying upon the aggravating factor of heinous,
9 atrocious and cruel, photographs of the deceased are
10 admissible for the jury to see the manner of the death
11 and the injuries inflicted upon the victim, and the
12 State did rely upon heinous, atrocious and cruel, and
13 the Court properly ruled that those photographs were
14 admissible. As the Court recalls, they were just
15 photographs of the body at the scene in the pool.
16 There was nothing particularly heinous or atrocious
17 about those photographs.

18 We'd also point out, Your Honor, as to Ms.
19 Arbogast who it was complained that her testimony was
20 not allowed, the Court heard her testimony outside the
21 presence of the jury, and Mr. Mayo was allowed to
22 cross-examine her in depth. And as the Court recalls,
23 on direct examination I asked her if she had any direct
24 knowledge of any of the things she was testifying to
25 and she stated she did not. She heard this from the --

1 from her brother who heard it from Jon Hall. So it's
2 third-party hearsay. That's why the Court would not
3 allow her to testify. She didn't have any personal
4 knowledge of any of the facts she was about to testify
5 to. So the Court properly ruled on that.

6 And we'd ask that the motion, Your Honor, be
7 -- the Motion for New Trial be overruled.

8 If I could point out one more thing. Your
9 Honor, on the argument that the Court allowed the
10 aggravating factor that the murder was committed during
11 the perpetration of a first degree murder, rape,
12 robbery, burglary, I'd point out to the Court, that
13 instruction was not given. The State withdrew that
14 aggravating factor. As the Court recalls, we had a
15 pretty big discussion on the matter, and the State
16 conceded and withdrew that aggravating factor. So that
17 wouldn't be a ground.

18 THE COURT: Anything further?

19 MR. FORD: No, sir, Your Honor.

20 THE COURT: All right, the Court overrules
21 the Motion for a New Trial.

22 DEFENDANT HALL: Objection.

23 THE COURT: Note the objection.

24 All right, now, I'm ready to hear with regard
25 to your motion -- to the lawyers' motion that they be

1 allowed to withdraw.

2 MR. FORD: Your Honor, we recently received a
3 package of motions and correspondence from Mr. Hall
4 that basically, in summary, show that he's very
5 dissatisfied with my representation and maybe somewhat
6 dissatisfied with Mr. Mayo's representation, and also
7 issues of ineffective counsel are raised in his pro se
8 motions. We feel under the circumstances that there's
9 a conflict here between our representation of Mr. Hall
10 and Mr. Hall, and in fact, as part of the
11 correspondence, he had threatened to have Mr. Bracy --
12 charges brought against me through the Board of
13 Professional Responsibility. He refers to me as
14 Benedict Arnold, hand-holding Mr. Woodall -- holding
15 Mr. Woodall's hand during the trial, that kind of
16 thing. I don't know how we can in good faith continue
17 the representation unless he wants to retract or
18 withdraw --

19 THE COURT: Mr. Ford, I think you know the
20 history of this case. I appointed the Public
21 Defender's office to represent Mr. Hall and went on for
22 months various and sundry things, and finally he
23 decided that he didn't want them and that they then
24 were excused. And then at his request in trying to be
25 fair about the matter, the Court then appointed two

1 other lawyers, Mr. Carthel Smith who is the -- well-
2 trained, highly successful lawyer in Lexington, and
3 also a gentleman named Mr. Mosier who had had
4 experience before in this court and in some other
5 matters that involved first degree murder. I'm not
6 sure about capital murder, but he had at least --
7 either in this court or Judge Murchison's, and that he
8 was a well-qualified lawyer, and they dealt with this
9 gentleman for several months, and suddenly he requested
10 that they be removed. And now comes down to the fact
11 that you and Mr. Ford -- I mean, Mr. Mayo, and that the
12 case -- the Court transferred it to Jackson in an
13 effort to avoid publicity, and as evidenced by the
14 trial itself, we were able to select a jury without any
15 noticeable amount of challenges or people who said they
16 couldn't -- had heard too much or did not believe in
17 the death penalty, and that we were not only able to
18 select a jury, but we were able to complete this case,
19 including the sentencing phase, within three days, and
20 that the case -- which would be strong evidence as far
21 as the Court is concerned that there was no -- that the
22 fact that it was heard over here did, in fact, bring it
23 to a place where the publicity didn't seem to affect
24 the case. And then now after the trial, I think there
25 was some mention at the trial -- In fact, Mr. -- as I

1 recall, Mr. Hall stood up after the jury was selected
2 when we had a short recess for the jurors to powder
3 their nose, he at that time said something about he
4 wanted to fire you, and the Court told him that it was
5 too late.

6 And I might also put in here that in an
7 effort to help matters out, I believe that the record
8 should show that he was brought back to Jackson here
9 some weeks before the trial, and at his -- at the fact
10 -- on the complaint that he wasn't seeing you people
11 enough because they had a problem of housing prisoners
12 of his -- the charges he had against him for safe-
13 keeping in Jackson, but that he -- despite that he was
14 brought back here for some weeks and that you requested
15 to see him regularly. As I understood, that was what
16 happened as far as the time back here.

17 And then he comes in and says that he doesn't
18 want you people. My problem gets to be is, how many
19 times is he going to say he's not satisfied. Public
20 Defender, no satisfaction. The --

21 DEFENDANT HALL: They quit.

22 THE COURT: You be quiet unless you want me
23 to gag you until I get through talking. You
24 understand? I don't want you to operate.

25 DEFENDANT HALL: Well why don't you just tell

1 the truth for the record?

2 THE COURT: Mr. Hall, I'm going to let you
3 talk at another time -- at a time now, and you either
4 keep your mouth shut or I'm going to get a gag and I'm
5 going to gag you where you can't be heard until you get
6 your time. You're going to be allowed to address this
7 Court this morning. You understand?

8 DEFENDANT HALL: Thank you, Your Honor.

9 THE COURT: All right. You're welcome.

10 And I'm wondering at what point that it's
11 going to be that I would relieve you and what guarantee
12 have we got on the next group, or the next one, or the
13 next one.

14 So the Court now as far as your motion, or
15 Mr. Ford's motion, to withdraw is denied.

16 MR. WOODALL: Your Honor, may I be heard?

17 THE COURT: You can be heard, but that's what
18 I'm going to do.

19 MR. WOODALL: Well, I know --

20 THE COURT: Then I'm going to take up his
21 motion where he asked to be relieved. You go right
22 ahead.

23 MR. WOODALL: All right, thank you, Your
24 Honor.

25 Under the Disciplinary Rule DR5-101, and I'm

1 not saying this makes me happy --

2 THE COURT: General, you don't have any horse
3 in this thing from the standpoint of what these lawyers
4 withdrawing.

5 MR. WOODALL: Your Honor, --

6 THE COURT: That's between them and this
7 Court and not between you.

8 MR. WOODALL: The State has a horse in this
9 race, Your Honor, --

10 THE COURT: All right, go ahead. Go ahead.

11 MR. WOODALL: Under this Disciplinary Rule
12 DR5-101, it very clearly states that a lawyer cannot
13 represent a client when the lawyer has a personal
14 interest in the outcome of the litigation. Mr. Ford
15 and his partner would have an interest in showing they
16 did not act incompetently, and thus their interest in
17 the case is contrary to that of the Defendant Jon Hall.
18 And as set forth in the petition of Youngblood, 895 SW
19 2d, 322, "A lawyer must zealously represent his client
20 and cannot do so when he has a personal interest in the
21 litigation."

22 I don't think there's any doubt that Mr. Ford
23 and Mr. Mayo did an excellent job, very competent job.
24 But by this Defendant making these allegations against
25 them --

1 THE COURT: General Woodall, that's their
2 argument. That's not yours. I don't understand your
3 position. You're getting up and arguing for them.

4 MR. WOODALL: Because the State doesn't want
5 to see a remand or a reversal later on for failure to
6 comply with the disciplinary rules.

7 THE COURT: All right, while you're talking,
8 tell me what the law is with regard to replacing them
9 or not replacing them and what lawyers -- how it should
10 be done. If you've got all this other, give me that.

11 MR. WOODALL: Well I don't have a case that
12 tells you how to do that, but Your Honor would have to
13 follow the same reasoning that you did when you
14 appointed Mr. Smith and Mr. Mosier and then appointed
15 Mr. Mayo and Mr. Ford. I don't know that there's any
16 case law to that affect, but that would be the
17 reasoning that the Court would follow.

18 I understand the Court's dilemma. When is
19 enough enough? And that's where you find yourself.
20 You've had a series of lawyers that we all know to be
21 competent. But I think that the State having an
22 interest in the outcome of this litigation has the duty
23 and obligation to bring this to the attention of the
24 Court.

25 THE COURT: All right, your motion for

1 withdrawal is overruled.

2 Now, Mr. Hall, you filed a motion, asked that
3 these lawyers be withdrawn from this case. Will you
4 come around please and let you -- take the stand?

5 MR. HALL: Take the stand?

6 THE COURT: I want you to come around and sit
7 down and take the stand here.

8 And I want you to swear him.

9 DEFENDANT HALL: I can't swear in.

10 COURT OFFICER: Remain standing. Would you
11 raise your right hand, please?

12 DEFENDANT HALL: I can't swear in. I'm under
13 the -- They're still flying the flag of war. That's in
14 contrary to -- contrast to the United States
15 Constitution.

16 THE COURT: All right, Mr. Hall, you filed a
17 motion here with regard to asking these lawyers to
18 withdraw; is that correct?

19 DEFENDANT HALL: I -- They filed it. I just
20 let them know that I made a motion orally in open court
21 before we ever started with these proceedings.

22 THE COURT: Mr. Hall, you mailed --

23 DEFENDANT HALL: On February 3rd.

24 THE COURT: Mr. Hall, you mailed a large
25 number of papers to this Court, and in that -- among

1 those papers, it was the Court's understanding that you
2 were asking that the Court discharge these people as
3 your lawyers. Is that correct or not?

4 DEFENDANT HALL: In my Motion for a New Trial
5 I --

6 THE COURT: Answer my question.

7 DEFENDANT HALL: You refused to let me
8 dismiss my attorney that I didn't feel confident with.

9 THE COURT: All right, I'm going to give you
10 an opportunity to testify with regard to whether they
11 should be disallowed -- be withdrawn or not. If you
12 desire not to testify, that's your privilege, and this
13 so-called war flag is the flag of the United States of
14 America, and it's put in here by the State of Tennessee
15 and it's going to remain in here, and whatever takes
16 place is going to take place while that flag is there
17 as long as I'm judge. Now if you wish to testify --

18 DEFENDANT HALL: That flag represents a
19 perjury of oath. You have a constitutional duty to
20 uphold the laws of the Constitution.

21 THE COURT: What law do you say I'm not
22 upholding?

23 DEFENDANT HALL: Well, for one, the American
24 flag is for -- of war with the gold braid around it is
25 -- it was enacted in 1933 under the War's Power Act.

1 It is used in federal courts sitting in admiralty.
2 I've got the case law over there. In fact, I filed a
3 motion in this court that should be in here right now.
4 It's called a Motion to Amend or Arrest a Judgment.

5 THE COURT: Let's get back now and listen --
6 DEFENDANT HALL: And it has all the cases
7 listed. I could go here and cite it and cite it for --
8 law for law, that maritime law is for -- is for
9 business and navigation and not in the courtroom
10 setting. This should have been a judicial setting
11 under the American flag of peace.

12 THE COURT: Mr. Hall, that's not the law, and
13 I so hold. So now my question is to you, do you wish
14 to take your motion as to these lawyers to be
15 withdrawn?

16 THE DEFENDANT: I filed an oral motion --

17 THE COURT: Listen to my question now.

18 THE DEFENDANT: -- before we ever went to
19 trial. I did not file a paper motion to withdraw.
20 They filed it.

21 THE COURT: All right. Let me ask you --

22 THE DEFENDANT: My Motion to Amend, I want to
23 do an ineffective assistance of counsel claim because
24 they failed to suppress illegally seized conduct
25 evidence that was admitted into evidence by Brian Bird.

1 There's several issues, and I would need to -- my trial
2 transcript before -- in order for me to point out all
3 these errors. I guess it's Woodall vs. Capital Case
4 Resource Center, I'm entitled to all the records in the
5 prosecutor's file. And I've got that case law --

6 THE COURT: Mr. Hall, what we have this
7 morning is a Motion for a New Trial and the Motion to
8 Withdraw. You understand?

9 THE DEFENDANT: That's their motion. My
10 motion was --

11 THE COURT: And you don't want to be heard on
12 it?

13 THE DEFENDANT: The -- I want my attorneys --
14 THE COURT: Just a minute.

15 THE DEFENDANT: -- to start acting
16 competently --

17 THE COURT: Bring him back over there.

18 THE DEFENDANT: -- and to argue my points.

19 THE COURT: You go back over there.

20 THE DEFENDANT: They are supposed to be my
21 advocate. If they can't be my advocate, who are they
22 representing? They aren't representing me. Just like
23 her parents were allowed to sit amongst the jury and
24 have --

25 THE COURT: Would you stand up just a minute,

1 please, sir? Do you know what day it is?

2 THE DEFENDANT: It's the 20th of March, 1997.

3 It's about five minutes 'til 10 by this clock.

4 THE COURT: You know where you are.

5 THE DEFENDANT: I'm in Madison County court

6 which I never committed any crimes in Madison County.

7 I was supposed to be tried in Henderson County, Docket

8 Number 94-342, 94-452, 94-454.

9 THE COURT: Well I want to warn you of this
10 now. In the event that these lawyers are discharged
11 and no longer represent you, you're going to have to
12 represent yourself. You will not be afforded a lawyer,
13 and I want you to understand that now.

14 THE DEFENDANT: Then you're violating my
15 Sixth Amendment to effective assistance of counsel
16 again, too.

17 THE COURT: All I can tell you is -- I'm
18 telling you now that I'll be glad to hear from you on
19 anything concerning these lawyers if you want to
20 testify, and I'm here to tell you now that I'm not
21 going to withdraw them unless you yourself will testify
22 to the fact that you understand that you will not have
23 any lawyers to represent you. You'll not -- Do you
24 know about what the deadlines are on filing motions?

25 THE DEFENDANT: Pursuant to Rule 45 of

1 Tennessee Rules of Criminal Procedure.

2 THE COURT: You know those?

3 THE DEFENDANT: I've got a layman's view of
4 them.

5 THE COURT: Well do you feel like you can
6 represent yourself?

7 THE DEFENDANT: I've tried to do that
8 February 3rd.

9 THE COURT: Mr. Hall, I'm asking you a --

10 THE DEFENDANT: This post-trial procedure is
11 beyond my scope of intellect, let's put it.

12 THE COURT: Mr. Hall, I'm asking you now:
13 Can you understand that I'm telling you that in the
14 event these two lawyers are discharged from
15 representing you, that you're not going to have a
16 lawyer appointed, you're going to have to represent
17 yourself? Do you understand that now? Do you
18 understand me telling you that?

19 THE DEFENDANT: Then do you understand you're
20 violating my Sixth Amendment right?

21 THE COURT: I'm not questioning whatever I
22 violate. I'm asking you if you understand that.

23 THE DEFENDANT: I wanted to represent myself
24 during the trial where I could ask my children correct,
25 competent questions instead of five questions each

1 witness and turn around -- It ain't no wonder it only
2 lasted three days. They didn't even ask no questions.
3 They didn't tie up no loose ends. They had evidence
4 they could have presented. They didn't ...

5 THE COURT: Anything else you want to say?

6 THE DEFENDANT: That was the sorriest trial I
7 ever saw. There was nothing about the truth that came
8 out in the trial, other than the fact that my wife was
9 gone.

10 THE COURT: How many trials -- That your wife
11 was dead, that somebody -- and that she was beat to
12 death. That come out, didn't it?

13 THE DEFENDANT: This is true.

14 THE COURT: All right. Let me ask you this
15 question now. Have you ever seen another trial?

16 THE DEFENDANT: Your Honor, I represented
17 myself in a North Carolina court.

18 THE COURT: What kind of case?

19 THE DEFENDANT: Misdemeanor. I've never been
20 charged -- I have no felony record. I've only had
21 misdemeanors, Your Honor.

22 THE COURT: Well you've never seen a jury
23 trial before, have you?

24 THE DEFENDANT: Your Honor, I had a satellite
25 t.v. I got court t.v. pumped into my house for a long

1 time. I've studied law for the last two years because
2 my counsel was quitting on me. They were waiving
3 issues that shouldn't have been waived. And that's why
4 I sent them stuff that I wasn't satisfied with their
5 representation, and they turned around and high-tailed
6 it and filed a Motion to Withdraw because I was ...

7 THE COURT: Well did you write them and talk
8 to Mr. Ford saying you was going to make a complaint to
9 the disciplinary board? Did you do that?

10 THE DEFENDANT: Well, heck, he --

11 THE COURT: I asked you now, did you do that?

12 THE DEFENDANT: He filed my letter into this
13 court which is attorney/client privileged mail.

14 THE COURT: All right, your Motion to
15 Withdraw is denied. Note your exception.

16 You understand now --

17 Let the record also show that I've asked this
18 gentleman if he cared to express himself on --

19 THE DEFENDANT: Yeah, I wanted Jesse Ford
20 gone February 3rd, whenever he made the opening
21 statements waiving the issue on my Miranda issue, which
22 I have presented in my pro se habeas corpus. You guys
23 never even acknowledged it, but the Federal Court
24 docketed it 3960940, and the Sixth Circuit Court, I
25 sent them an appellate brief, 96-624, and I sent this

1 Court both a copy of the brief and -- the brief and the
2 original complaint with exhibits, and this Court didn't
3 even entertain those, which would have helped eliminate
4 some of the conflicts, but you wouldn't hear of it.

5 I'm sorry if I'm being irrational or
6 whatever, but, you know, things just weren't going
7 right.

8 THE COURT: The Court don't find you
9 irrational. The Court finds that you're -- that what
10 you think -- that what you're doing, the Court finds
11 it's deliberate and that you're not irrational, that
12 you understand what you're doing.

13 THE DEFENDANT: Well I'm not trying to -- I'm
14 just -- I'm not trying to be hard to live with. I'm
15 just trying to make sure that certain things are on
16 record that should be on record that have been ignored
17 just because I'm being represented by counsel that
18 doesn't want to advocate my cause. I felt I could have
19 advocated my own cause and got a better verdict out of
20 the jury, because I would have known what questions to
21 ask. I wouldn't have sat there and asked five
22 questions and then said, okay, dismissed. I told you
23 that there were certain questions that needed to be
24 asked and they weren't asked. Just like they left the
25 false impression on the jury that I never took care of

1 my children. My wife, God rest her soul, she worked
2 from --

3 THE COURT: Just sit down, Mr. Ford.

4 THE DEFENDANT: -- seven p.m. to seven a.m.
5 at night --

6 THE COURT: I'm going to let you say anything
7 you want to after he gets finished.

8 THE DEFENDANT: -- three to four times a week
9 and then turned around and went to school three days a
10 week, Monday, Wednesday and sometimes Friday at Jackson
11 State Community College. During that period of time I
12 was the main caretaker of those children.

13 THE COURT: Now, Mr. --

14 THE DEFENDANT: And they sat there --

15 THE COURT: Just a minute.

16 THE DEFENDANT: -- and denied that I took
17 care of them.

18 THE COURT: Stop. Stop, Mr. Hall. Now if
19 you want to bring out any other facts, I'm going --
20 you'll have to take the oath.

21 THE DEFENDANT: If you'll remove the flag of
22 war --

23 THE COURT: I'm not going to remove the flag
24 of war.

25 THE DEFENDANT: -- to protect my

1 constitutional rights I can take the stand.

2 THE COURT: I'm not -- It's not going to be
3 removed under any circumstances unless some other court
4 -- higher court tells me. So your opportunity this
5 morning is to testify if you want to if you'll take the
6 oath. Now if you don't want to take the oath, then you
7 don't have to. You're not going to be allowed to
8 testify.

9 THE DEFENDANT: Can I at least get my records
10 from this Court, like the transcript?

11 THE COURT: You'll have to go through your
12 lawyers.

13 THE DEFENDANT: Why don't I just skip that
14 because my lawyers have not -- I found the freedom of
15 information acts based --

16 THE COURT: See, I can't accept that unless
17 you take the oath. See, I can't accept anything you
18 say as proof because it must be under oath. And so
19 what you've been rambling about, the Court does not
20 accept that because you refuse to obey the rules of
21 this Court, and the rule of this Court is that this
22 flag remains here, and anyone that testifies in this
23 courtroom must be under oath.

24 THE DEFENDANT: Well regardless, Capital Case
25 Resource Center vs. Woodall, which I assume is Jerry

1 Woodall, Case Number 01-8-01-9104-CH-00150, 1992,
2 Tennessee Appeals, Lexus '94, Tennessee Appeals,
3 January 29, 1992, in which it was determined that files
4 held by the district attorney general were public
5 records under the Tennessee Public Records Act. I
6 believe I'm entitled to those records.

7 Thank you, Your Honor.

8 THE COURT: All right, Mr. Ford. You can say
9 what you want to.

10 MR. FORD: Your Honor, I'm just a bit
11 concerned about Mr. Hall's allegations, raising issues
12 of ineffective assistance of counsel. Now that's
13 basically his argument here. If the Court wants to
14 proceed, and that's the Court's ruling, however, I just
15 want to point that out, but --

16 THE COURT: You've pointed it out, and the
17 Court's ruling is that you'll proceed. Mr. Ford, I've
18 got no assurance that this man either wouldn't
19 cooperate or didn't cooperate or they didn't please,
20 his first group of lawyers, and then out of an
21 abundance of caution I gave him a second group of
22 lawyers, and now after the trial is over -- and after
23 we went through, and the Court feels comfortable about
24 the -- about what the jury did, that then to now kick
25 you out and attempt to bring some other lawyers, we

1 don't have that many trained lawyers in this immediate
2 area, and if I -- you're removed, you've got to go to
3 Memphis or Nashville or some place, which it would make
4 it even more disjointed than it is now.

5 THE DEFENDANT: That's where they were headed
6 before.

7 MR. FORD: I'm just afraid, Your Honor, --

8 THE COURT: Well just be afraid. You be
9 afraid, and I don't feel like you got any more personal
10 interest here than any other lawyer. Personal itself,
11 the Court is of the opinion that you don't have any
12 unusual personal interest in this matter over and above
13 what you would any other circumstances.

14 MR. FORD: Thank you, Your Honor.

15 THE COURT: Anything further?

16 MR. FORD: No, sir.

17 THE COURT: Court is adjourned.

18 One more thing, obviously the Court can hold
19 this under -- it would be under consideration for 30
20 days, if anybody wants to submit any brief, or if
21 General Woodall wants to submit his brief about your
22 feelings in the matter, your public interest or
23 anything like that, if he wants to be a friend of the
24 Court on the motion. I have no problem with it.

25 THE DEFENDANT: Well could I have my

1 transcript so I can file my brief?

2 MR. FORD: We're going to order the
3 transcript, Your Honor.

4 THE COURT: You can talk to your lawyers and
5 they'll tell you.

6 THE DEFENDANT: Well I've filed the Freedom
7 of Information Acts until I'm blue in the face and
8 haven't received discovery one from them.

9 THE COURT: You go right ahead and recite.
10 Just go ahead. Take him upstairs.

11 THE DEFENDANT: Upstairs? I believe I'm on
12 my way to Riverbend where they don't -- where the
13 conditions aren't sub-standard like in these county
14 jails and the city jail. You know it. You know
15 they're overcrowded. They've got beds on the floors in
16 there. That's a nasty place. At least the Department
17 of Corrections can do something right.

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19 **END OF REQUESTED PROCEEDINGS.**

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CERTIFICATE

2 I, the undersigned Amy Mays, Official Court
3 Reporter for the 26th Judicial District of the State of
4 Tennessee, do hereby certify that the foregoing is a
5 true, accurate and complete transcript, to the best of
6 my knowledge and ability, of the requested proceedings
7 had in the captioned cause, in the Criminal Court for
8 Madison County, Tennessee, on the 20th day of March,
9 1997.

10 I do further certify that I am neither of
11 kin, counsel nor interest to any party hereto.

12

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14

AMY MAYS

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DATE

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CERTIFICATE OF THE COURT

2 This is to certify that the Transcript of the
3 Evidence adduced at the Motion for New Trial in
4 this case has been filed with the Clerk of the Court in
5 accordance with the Tennessee Rules of Appellate
6 Procedure.

7 This is to further certify that the Court has
8 examined the Transcript of the Evidence and has found
9 it to be a true and accurate record of the proceedings.

10 THEREFORE, IT IS ORDERED, ADJUDGED AND
11 DECREED that the Transcript of the Evidence is hereby
12 approved by the Court and counsel for the State and the
13 Defendant, and the Clerk is hereby ordered to make the
14 Transcript of the Evidence part of the Record on Appeal
15 in this case.

16

Wm. H. Dunn

JUDGE

17

June 30, 1997

18

DATE

20 APPROVAL:

21

FILED

22 ATTORNEY FOR THE STATE

23

JUN 25 1997

24

JOE CAFFNEY, CIRCUIT COURT CLERK

25 ATTORNEY FOR THE DEFENDANT

DEPUTY CLERK
A.M.